

REMARKS

This amendment is responsive to the Office Action dated November 20, 2007 and received in this application. In the amendment, claims 1, 3, 4, 7, 8, 10, 11, 13, 14, 16, 17, 19, 30, 21, 23 and 25 have been amended, and claims 2, 9, 15 and 22 have been canceled without prejudice to further prosecution of their subject matter in this or another application. Claims 26-33 have been added. Reconsideration of pending claims 1, 3, 4, 6-8, 10, 11, 13, 14, 16, 17, 19-21, 23, and 25-33 is respectfully requested.

Claim 13 has been objected to for having an improper dependency. Applicant appreciates the Examiner's attention to the claims in this regard, and has corrected the claim accordingly.

Claims 1-4, 7-11, 13-17, 19-23 and 25 have been rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim what applicant regards as the invention.

Specifically, the Action cites the language "video/audio" as a source of indefiniteness. Applicant has amended the claims to remove this language, and respectfully requests reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. § 112, second paragraph as being indefinite.

Claims 1-4, 6-11, 13-17, 19-23 and 25 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,266,649 to Linden et al. ("Linden") in view of U.S. Pat. No. 5,933,811 to Angles et al. ("Angles"). This rejection is traversed.

Claim 1 has been amended and now recites: *[a] service managing apparatus for managing an information transmission service in which digital content is sent in real time between communication devices connected to each other over a network, the apparatus comprising:
a communication controlling means for controlling the communication with each of the communication devices;*

an information registering means for maintaining registration information on more than one piece of digital content available from those of the communication devices that are registered as an information provider; and

an information managing means for dynamically generating, based on the registration information, choices-window information from which selection is made of a desired one of the plurality of pieces of offered digital content by those of the communication devices that are to receive the desired piece of offered digital content,

the information managing means updating, when the registration information has been updated based on updating information reflecting the current status of the information provider, the choices-window information on the basis of the updated registration information, wherein the choices-window information includes information indicative of whether the communication device that is the information provider can currently provide the offered digital content in real time, and

wherein the communication controlling means controls the connection between the communication device that receives the desired piece of offered digital content and the communication device that is the information provider, with the desired piece of offered digital content being provided in real time when it is indicated as currently available in real time.

These claimed features accommodate the sending of digital content between communications devices that are connected to each other over a network. The information registering means registers the digital content available from those of the communication devices that are registered as an information provider. The information managing means dynamically generates choices-window information for selection of a desired piece of offered digital content for the communication device that is to receive the desired piece of offered digital content. The communication controlling means controls the connection between the communication device that receives the desired piece of offered digital content and the communication device that is the information provider. Additionally, the choices-window information includes information indicative of whether the communication device that is the information provider can currently provide the offered digital content in real time.

These claimed features are absent from Linden. Linden merely provides a web server through which recommended content may be purchased. This is distinct from communication between “communication devices” that is provided in this application. Also, with this application, the actual “digital content” is sent from a communication device that acts as the information provider to another of the communication devices through which selection of the desired digital content is made. Finally, the current availability of the digital content in real time is indicated in the choices-window and provided as such when the digital content is selected

Linden discloses a system that allows for collaborative recommendations wherein computer users may rate various items that are available through the web site/server. The computer users do not register “digital content” that is to be provided by their computer, nor do they select from among the offered digital content so that it can be sent from one of the computers to another of the computers that may be connected through the network. Even presuming that the computers of Linden may be configured to communicate with each other, there is no mention of any kind of sending registered digital content from one computer to another, particularly with corresponding indications of what digital content items are currently available in real time.

The Action states that Linden teaches that items may be registered for purchase, with reference to col. 4, lines 40-45. (See Action, at p. 2). However, this passage merely emphasizes that users may make recommendations about content. This is not “*maintaining registration information on more than one piece of digital content available from those of the communication devices that are registered as an information provider*” as claimed by Applicant. The users (of, e.g., Amazon) are merely opining about content that they own and that is available through Amazon. This is not comparable to, and is not an example of the claimed features of registering a communication device as an information provider.

Still further, Linden does not disclose or suggest “*wherein the choices-window information includes information indicative of whether the communication device that is the*

information provider can currently provide the offered digital content in real time,” or “wherein the communication controlling means controls the connection between the communication device that receives the desired piece of offered digital content and the communication device that is the information provider, with the desired piece of offered digital content being provided in real time when it is indicated as currently available in real time,” as claimed by Applicant. Linden discloses generating recommendations that are specific to a shopping cart. (See 6:52-67 of Linden). First, these features do not disclose registering a device as an information provider, even generally. Moreover, there is clearly no disclosure or suggestion of providing an indication that the corresponding digital content is available in real time, or of providing the desired piece of offered digital content in real time, from the registered communication device that is the information provider to the registered communication device that is to receive the digital content.

As explained previously on the record, Angles does not remedy the deficiencies of Linden. Angles discloses a system for delivering customized advertisements within interactive communication systems. When a user of a “consumer computer” accesses an offering from a content provider computer, a corresponding advertisement provider computer generates a custom advertisement based upon the user’s profile, and combines that custom advertisement with the offering being provided by the content provider computer for display by the consumer computer.

Although some content is delivered from the advertisement provider computer to the consumer computer (*i.e.*, the customized ads, presumably within web pages or the like that are accessed through the content provider computer), as with the Linden reference there is clearly no registration as an information provider, nor is there the feature of having choices-window information *from which selection is made of a desired one of the plurality of pieces of offered digital content by those of the communication devices that are to receive the desired piece of offered digital content.”* Even under the strained interpretation of this reference in the Action, there is no reasonable instance of selection of the desired content through the communication devices.

Since Linden and Angles, whether taken alone or in combination, fail to yield the claimed features recited in Applicant's claim 1, Applicant submits that a prima facie case of obviousness is not present for that claim. For reasons similar to those provided regarding claim 1, independent claims 8, 14 and 21 are also neither disclosed nor suggested by the relied-upon references.

The dependent claims are also distinct from the references, for their incorporation of the features recited in the independent claims, as well as for their separately recited, patentably distinct features.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. 103(a) as being unpatentable over the combination of Linden and Angles.

In view of the foregoing arguments, all claims are believed to be in condition for allowance. If any further issues remain, the Examiner is invited to telephone the undersigned to resolve them.

This response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicant expressly does not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. SON-3141 from which the undersigned is authorized to draw.

Dated: December 18, 2007

Respectfully submitted,

By  40,290

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